

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1102 OF 2006

Union of India ... Petitioner

V/s.

O.T. Anthrayose ... Respondent

Mrs. N.V. Masurkar for the petitioner.

**CORAM : F.I. REBELLO,
ANOOP V. MOHTA, JJ.
DATED : 18th April, 2006**

P.C.

. The petitioner has approached this Court against order dated 6th October, 2005 passed by the CAT in Original Application No. 331 of 2005. The respondent herein who is applicant was granted facility of first class pass, that was cancelled. Consequently, thereupon, he filed O.A.

2. Few facts may be set out. The respondent was earlier appointed in DGS & D. He was declared surplus. The date of appointment in the DGS & D was in the year 1975. He came to be absorbed in the Indian Railways in the year 1995. His past services including seniority have been protected for all purposes. In other words, his initial entry in the DGS & D has been protected as service in the Railways.

Pursuant to the revision of pay scale, the Railway Board issued directions in the matter of entitlement of railway pass. The limited question before the tribunal was whether the applicant falls under category 2B or category 2C as contended by the petitioner. The Tribunal on facts found that the applicant falls within the category 2B and accordingly issued directions.

3. At the hearing of this petition, on behalf of the petitioner the learned counsel seeks to rely on circular dated 2nd August, 2001 issued by the Government of India, Ministry of Railways, Railway Board and it has been pointed out that eligibility of first class, is strictly governed on the basis of the date of entry in the railway service and the prescribed pay limit as per the pass rules. In terms of clause 2B an employee must be drawing pay of Rs. 5275/- and scale has to be maximum of Rs. 7000/- or above. The respondent is in the scale of Rs. 5000/- to Rs. 8000/-. In so far as "C" is concerned, an employee must be drawing pay scale of Rs. 7250/- or above and in the scale of minimum of Rs. 6500/-. If this is applied, the respondent would not be drawing in the minimum scale of Rs. 6500/-.

4. We have heard the learned Counsel. Once the respondent was absorbed in the Railway services and given the benefit of his past services including seniority and all other conditional services including consideration of promotion, his date of entry in the Railway Services must be held to be the date when he has joined the services of DGS & D in the year 1975. Once it is so held, the respondent is entitled to other benefits as he meets the other requirements of pay and pay scale in terms of clause 2B. We also confirm the view taken by the CAT. In the light of that the order does not suffer from any error apparent. No interference is called for.

5. Petition is dismissed.

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]